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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/779,334 | 02/08/2001 | Carsten Stochholm | 6092-2000-US | 9041 |

25908 78901 04/14/2003

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

EXAMINER

WEBER, JON P.

| | |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

1681

DATE MAILED: 04/14/2003

13

Please find below and or attached an Office communication concerning this application or proceeding

Office Action Summary

Application No.

09/779,334

Applicant(s)

SJOEHOLM ET AL.

Examiner

Jon P Weber, Ph.D.

Art Unit

1651

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-22 is/are pending in the application.
- 4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Notice of Substantive Examination (PTO-949)
- 4) ☐ Interview Summary (PTO-413) (Paper Notice)
- 5) ☐ Notice of Informal Patent Application (PTO-152)

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Status of the Claims

The response with amendments filed 06 February 2003 has been received and entered. Claims 14-22 have been presented for examination.

Election/Restrictions

Newly submitted claims 17-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

It is argued that the restriction is improper because the burden under combination/subcombination has not been met and the claims are linking.

The Office action of 06 August 2002 clearly spelled out why the restriction was proper: The restriction was not a combination/subcombination as argued. The feed by virtue of being acted upon by the protease has been modified. The feed is then different both from its starting materials and the protease used to treat it. The restriction was made FINAL in the previous Office action.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102 and 103

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Claims 14-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Outtrup et al. (US 5,597,720).

Claims 14-15 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Aunstrup et al. (US 3,674,643).

Claims 14-16 stand rejected under 35 U.S.C. 102(b) as anticipated by Ichishima et al. (US 4,480,037).

Claims 14-15 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Horikoshi et al. (US 4,052,262).

It is argued that these references simply disclose various proteases and do not disclose a feed additive or a composition comprising an acid stable protease and at least one of fat soluble vitamins, water soluble vitamins and trace minerals.

As pointed out in the Office action of 06 August 2002, these references do disclose compositions comprising acid stable protease and trace and macro minerals. The proteases are the same as those specifically listed in the instant disclosure and the minerals are the same as those specifically listed in the instant disclosure. The basis for asserting that these are not disclosed in the references is not understood. Outtrup et al. (US 5,597,720) and Ichishima et al. (US 4,480,037) describe the specific organism set forth in claim 16. The animal feed additive does not distinguish from a simple composition combining the ingredients.

Applicant's arguments filed 06 February 2002 have been fully considered but they are not persuasive. The rejections under 35 U.S.C. 102 are adhered to for the reasons of record and the

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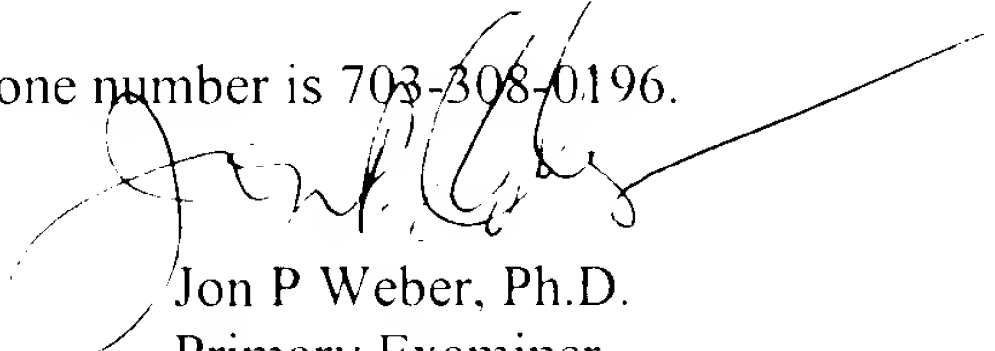
No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon P Weber, Ph.D. whose telephone number is 703-308-4015.

The examiner can normally be reached on daily, off 1st Fri, 9/5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn can be reached on 703-308-4743. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Jon P Weber, Ph.D.
Primary Examiner
Art Unit 1651

JPW
April 7, 2003